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6 UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

7 BILL M. OGAN,

8 Plaintiff,

9 v.

10 SPOKANE COUNTY JAIL, *et al.*,11 Defendants.
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NO. CV-06-317-RHW

**ORDER GRANTING
PLAINTIFF'S MOTION FOR
RECONSIDERATION,
CONTINUING TRIAL, SETTING
PRETRIAL CONFERENCE**

14 Before the Court is Plaintiff's Motion for Reconsideration to Appoint
15 Counsel and Other Requests (Ct. Rec. 59). A telephonic hearing was held on
16 January 25, 2008. Plaintiff appeared on his own behalf; Defendants were
17 represented by Robert Binger. Plaintiff makes several requests in his motion: (1)
18 that the Court reconsider its order denying him appointment of counsel; (2) for an
19 extension of time to conduct discovery, amend his complaint, and prepare for trial;
20 and (3) to amend his complaint.

21 The Court granted Plaintiff leave to amend his complaint in its November
22 13, 2007 Order Denying in Part, Granting in Part Defendants' Motion for
23 Summary Judgment (Ct. Rec. 58).

24 The Court has reconsidered Plaintiff's request for the appointment of
25 counsel. Surviving Defendants' motion for summary judgment increases the
26 "likelihood of success on the merits," which is one of the factors the Court
27 considers under 28 U.S.C. § 1915(e). The Center for Justice has stated in
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1 correspondence with the Court that it will be willing and able to undertake
2 Plaintiff's representation by the end of March 2008. The Court finds that
3 sufficiently "exceptional circumstances" exist to warrant appointment in this
4 matter. *See Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986).

5 To give Plaintiff's new counsel an adequate amount of time to become
6 familiar with this matter, an opportunity to amend Plaintiff's complaint, if desired,
7 and an opportunity to conduct further discovery, the Court finds a continuance is
8 necessary. Likewise, defense counsel stated a continuance would be appropriate
9 with an amended complaint.

10 Accordingly, **IT IS HEREBY ORDERED:**

11 1. Plaintiff's Motion for Reconsideration to Appoint Counsel and Other
12 Requests (Ct. Rec. 59) is **GRANTED**.

13 2. The Center for Justice, 35 West Main Street, Suite 300, Spokane,
14 Washington, is **appointed** as counsel for Plaintiff in the above-captioned case. An
15 attorney from the Center for Justice shall **enter an appearance** in this matter on or
16 before ten (10) days from the date of this Order.

17 3. Within twenty (20) days from the date of this order, defense counsel shall
18 notify the Center for Justice as to Plaintiff's location.

19 4. A telephonic pretrial conference is **set on April 15, 2008, at 9:30 a.m.**
20 Counsel for the parties shall call the Court conference line ((509) 458-6380) at the
21 appropriate time.

22 5. The jury trial set for February 11, 2008, is **stricken**. A new trial date will
23 be set at the pretrial conference.

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ORDER GRANTING PLAINTIFF'S MOTION FOR RECONSIDERATION,
CONTINUING TRIAL, SETTING PRETRIAL CONFERENCE * 2

s/Robert H. Whaley

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